

EXHIBIT F

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NO. 9859 P. 1

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F I L E D
SAN MATEO COUNTY CLERK'S OFFICE

NOV 05 2010

By 
Clerk of the Court
DEPUTY CLERK

2/18
AGZ/DWA

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO

11 New Enterprise Associates, Inc., a Delaware Corporation, CASE NO.: 499465
12 Plaintiff,
13 v.
14 Michael Zeleny, and DOES 1-25,
15 Defendant [sic]

ANSWER OF DEFENDANT MICHAEL ZELENY TO COMPLAINT; DEMAND FOR JURY TRIAL

FILE VIA FAX

Date Filed: October 5, 2010

19
20 Defendant Michael Zeleny ("Zeleny"), for himself and no other defendant, hereby
21 answers the unverified Complaint of New Enterprise Associates, Inc. ("NEA"), as follows:

22 Pursuant to Section 431.30 of the California Code of Civil Procedure, Zeleny
23 generally denies each and every allegation contained in the Complaint.

24 **FIRST AFFIRMATIVE DEFENSE**

25 (Failure to State a Cause of Action)

26 The Complaint fails to state facts sufficient to constitute a cause of action upon
27 which relief can be granted against Zeleny.

1 **SECOND AFFIRMATIVE DEFENSE**

2 (Statutes of Limitations)

3 The Complaint is barred in whole or in part by applicable statutes of limitation.

4 **THIRD AFFIRMATIVE DEFENSE**

5 (Laches)

6 The Complaint is barred in whole or in part by the doctrine of laches.

7 **FOURTH AFFIRMATIVE DEFENSE**

8 (Constitutional Right)

9 The conduct alleged in the Complaint constituted exercise of Zeleny's rights under
10 the First and Fourteenth Amendments of the United States Constitution and Article I Section 2 of
11 the Constitution of the state of California.

12 **FIFTH AFFIRMATIVE DEFENSE**

13 (Express or Implied Consent and License)

14 The Complaint is barred in whole or in part on the basis of consent and license to
15 members of the public, including without limitation Zeleny, which consent and license was granted
16 by NEA, other tenants of the subject property, and the owner of the subject property.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 (Unclean Hands)

19 The Complaint is barred in whole or in part by the doctrine of unclean hands.

20 **SEVENTH AFFIRMATIVE DEFENSE**

21 (Failure to Mitigate Damages)

22 The Complaint is barred in whole or in part because NEA failed to mitigate its
23 alleged damages.

24 WHEREFORE, Zeleny prays for relief and judgment against NEA as follows:

- 25 1. That NEA take nothing.
26 2. That Zeleny recover costs of suit.

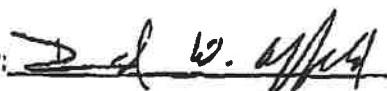
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28

1 3. That the Court award such other and further relief as the Court may deem
2 proper.
3

4 DATED: November 4, 2010

AFFELD GRIVAKES ZUCKER LLP

6 By: 
7

8 David W. Affeld
9
10

11 Attorneys for Defendant Michael Zeleny
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13 DEMAND FOR JURY TRIAL

14 DATED: November 4, 2010

AFFELD GRIVAKES ZUCKER LLP

16 By: 
17

18 David W. Affeld
19
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21 Attorneys for Defendant Michael Zeleny
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PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
ss.

I, the undersigned, certify and declare that I am over the age of 18 years, employed
in the County of Los Angeles, California, and am not a party to the within action; my business
address is 12400 Wilshire Boulevard, Suite 1180, Los Angeles, California 90025-7120, and my
email address is dwa@agzlaw.com. On November 4, 2010, I served the following document
described as **ANSWER OF DEFENDANT MICHAEL ZELENY TO COMPLAINT;**
DEMAND FOR JURY TRIAL on the interested parties in this action as follows:

**Robert B. Hawk
Kristi K. Elder
Nimrod H. Aviad
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BY MAIL - By placing a true copy thereof enclosed in a sealed envelope addressed as stated in the attached service list, I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

XXXXXX I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

By personal delivery.

(By email) At approximately 4:10 p.m., I sent the foregoing document in pdf format by email transmission from dwa@agzlaw.com to counsel identified above at the email addresses stated above pursuant to agreement between the parties of October 22, 2010, and Rule of Court 2.260.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 4, 2010, at Los Angeles, California.

David W. Affeld
Type or Print Name

D. L. W. Jeffery
Signature